

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	Jae-Hyun Ryou et al.	)
Serial No.:	10/607,629	)
Filing Date:	June 27, 2003	) Art Unit
Confirmation No.:	8741	) 2828
Title:	A DIELECTRIC VCSEL GAIN GUIDE	)
Examiner:	Tuan N. Nguyen	)
Customer No.:	022913	)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO ELECTION OF SPECIES AND RESTRICTION REQUIREMENTS**

Dear Sir:

In the Office Action mailed September 14, 2006 (the "Office Action"), the Examiner set forth election of species and restriction requirements.

**I. Restriction Requirement**

The restriction requirement made by the Examiner identified what the Examiner has characterized as two (2) distinct inventions. In particular, the Examiner suggested in the Office Action that the present application contains claims directed to the following two inventions:

- I. Group 1, claims 1-7, 14-18, drawn to a device, classified in class 372, subclass 50.011; and
- II. Group 2, claims 8-13, 19-26, drawn to a method, classified in class 438, subclass 478.

In response to the restriction requirement set forth in the Office Action, Applicant hereby elects Invention I - Group 1 (claims 1-7 and 14-18, drawn to a device), without traverse.

**II. Election of Species Requirement**

The Examiner has indicated that Applicant is required to elect a single disclosed species from one of the following: Figure 1; Figure 2; Figure 3; Figure 4; Figure 5; and Figures 6a-c.

In response to the election of species requirement set forth in the Office Action, Applicant hereby elects the species corresponding to Figure 5, without traverse. Claims 1-7 and 14-18 are readable on the species corresponding to Figure 5.

Applicant notes that while the elections of invention and species set forth herein are made without traverse, the mere fact that no traversal is made should not be construed as either a judgment or concession by the Applicant as to the merits, if any, of: the characterization of the claims and species advanced by the Examiner in the election of species and restriction requirements set forth in the Office Action; or, any other assertions, allegations, statements or characterizations made by the Examiner in those election of species and restriction requirements.

Applicant's election of species herein is made without prejudice. As noted by the Examiner, upon the allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species that are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141.

In light of the elections made herein, an action on the merits of claims 1-7 and 14-18 and a Notice of Allowance thereof are respectfully requested. In the event that the Examiner wishes to discuss any of the matters contemplated hereby, the Examiner is invited to initiate a telephone conversation with the undersigned.

DATED this 12<sup>TH</sup> day of October 2006.

Respectfully submitted,



PETER F. MALEN JR.

Attorney for Applicants

Registration No. 45,576

**Customer No.: 022913**

Telephone No.: (801) 533-9800